

EN BANC

[G.R. NO. 174340, October 17, 2006]

IN THE MATTER OF THE PETITION FOR ISSUANCE OF WRIT OF HABEAS CORPUS OF CAMILO L. SABIO, PETITIONER, J. ERMIN ERNEST LOUIE R. MIGUEL, PETITIONER-RELATOR, VS. HONORABLE SENATOR RICHARD GORDON, IN HIS CAPACITY AS CHAIRMAN, AND THE HONORABLE MEMBERS OF THE COMMITTEE ON GOVERNMENT CORPORATIONS AND PUBLIC ENTERPRISES AND THE COMMITTEE ON PUBLIC SERVICES OF THE SENATE, HONORABLE SENATOR JUAN PONCE-ENRILE, IN HIS OFFICIAL CAPACITY AS MEMBER, HONORABLE MANUEL VILLAR, SENATE PRESIDENT, SENATE SERGEANT-AT-ARMS, AND THE SENATE OF THE PHILIPPINES, RESPONDENTS.

[G.R. NO. 174318]

PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG) AND CAMILO L. SABIO, CHAIRMAN, NARCISO S. NARIO, RICARDO M. ABCEDE, TERESO L. JAVIER AND NICASIO A. CONTI, COMMISSIONERS, MANUEL ANDAL AND JULIO JALANDONI, PCGG NOMINEES TO PHILCOMSAT HOLDINGS CORPORATION, PETITIONERS, VS. RICHARD GORDON, IN HIS CAPACITY AS CHAIRMAN, AND MEMBERS OF THE COMMITTEE ON GOVERNMENT CORPORATIONS AND PUBLIC ENTERPRISES, MEMBERS OF THE COMMITTEE ON PUBLIC SERVICES, SENATOR JUAN PONCE-ENRILE, IN HIS CAPACITY AS MEMBER OF BOTH SAID COMMITTEES, MANUEL VILLAR, SENATE PRESIDENT, THE SENATE SERGEANT-AT-ARMS, AND SENATE OF THE PHILIPPINES, RESPONDENTS.

[G.R. NO. 174177]

PHILCOMSAT HOLDINGS CORPORATIONS, PHILIP G. BRODETT, LUIS K. LOKIN, JR., ROBERTO V. SAN JOSE, DELFIN P. ANGCAO, ROBERTO L. ABAD, ALMA KRISTINA ALOBBA, AND JOHNNY TAN, PETITIONERS, VS. SENATE COMMITTEE ON GOVERNMENT CORPORATIONS AND PUBLIC ENTERPRISES, ITS MEMBERS AND CHAIRMAN, THE HONORABLE SENATOR RICHARD GORDON AND SENATE COMMITTEE ON PUBLIC SERVICES, ITS MEMBERS AND CHAIRMAN, THE HONORABLE SENATOR JOKER P. ARROYO, RESPONDENTS.

DECISION

SANDOVAL-GUTIERREZ, J.:

Two decades ago, on February 28, 1986, former President Corazon C. Aquino installed her regime by issuing Executive Order (E.O.) No. 1,^[1] creating the Presidential Commission on Good Government (PCGG). She entrusted upon this Commission the herculean task of recovering the ill-gotten wealth accumulated by the deposed President Ferdinand E. Marcos, his family, relatives, subordinates and close associates.^[2] Section 4 (b) of E.O. No. 1 provides that: **"No member or staff of the Commission shall be required to testify or produce evidence in any judicial, legislative or administrative proceeding concerning matters within its official cognizance."** Apparently, the purpose is to ensure PCGG's unhampered performance of its task.^[3]

Today, the constitutionality of Section 4(b) is being questioned on the ground that it tramples upon the Senate's power to conduct legislative inquiry under Article VI, Section 21 of the 1987 Constitution, which reads:

The Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in or affected by such inquiries shall be respected.

The facts are undisputed.

On February 20, 2006, Senator Miriam Defensor Santiago introduced Philippine Senate Resolution No. 455 (Senate Res. No. 455),^[4] "directing an inquiry in aid of legislation on the anomalous losses incurred by the Philippines Overseas Telecommunications Corporation (POTC), Philippine Communications Satellite Corporation (PHILCOMSAT), and PHILCOMSAT Holdings Corporation (PHC) due to the alleged improprieties in their operations by their respective Board of Directors."

The pertinent portions of the Resolution read:

WHEREAS, in the last quarter of 2005, the representation and entertainment expense of the PHC skyrocketed to P4.3 million, as compared to the previous year's mere P106 thousand;

WHEREAS, some board members established wholly owned PHC subsidiary called Telecommunications Center, Inc. (TCI), where PHC funds are allegedly siphoned; in 18 months, over P73 million had been allegedly advanced to TCI without any accountability report given to PHC and PHILCOMSAT;

WHEREAS, the *Philippine Star*, in its 12 February 2002 issue reported that the executive committee of Philcomsat has precipitately released P265 million and granted P125 million loan to a relative of an executive committee member; to date there have been no payments given, subjecting the company to an estimated interest income loss of P11.25 million in 2004;

WHEREAS, there is an urgent need to protect the interest of the Republic of the Philippines in the PHC, PHILCOMSAT, and POTC from any anomalous transaction, and to conserve or salvage any remaining value of the government's equity position in these corporations from any

abuses of power done by their respective board of directors;

WHEREFORE, **be it resolved that the proper Senate Committee shall conduct an inquiry in aid of legislation, on the anomalous losses incurred by the Philippine Overseas Telecommunications Corporation (POTC), Philippine Communications Satellite Corporation (PHILCOMSAT), and Philcomsat Holdings Corporations (PHC) due to the alleged improprieties in the operations by their respective board of directors.**

Adopted.

(Sgd) MIRIAM DEFENSOR SANTIAGO

On the same date, February 20, 2006, Senate Res. No. 455 was submitted to the Senate and referred to the *Committee on Accountability of Public Officers and Investigations* and *Committee on Public Services*. However, on March 28, 2006, upon motion of Senator Francis N. Pangilinan, it was transferred to the *Committee on Government Corporations and Public Enterprises*.^[5]

On May 8, 2006, Chief of Staff Rio C. Inocencio, under the authority of Senator Richard J. Gordon, wrote Chairman Camilo L. Sabio of the PCGG, one of the herein petitioners, inviting him to be one of the resource persons in the public meeting jointly conducted by the *Committee on Government Corporations and Public Enterprises* and *Committee on Public Services*. The purpose of the public meeting was to deliberate on Senate Res. No. 455.^[6]

On May 9, 2006, Chairman Sabio declined the invitation because of prior commitment.^[7] **At the same time, he invoked Section 4(b) of E.O. No. 1** earlier quoted.

On August 10, 2006, Senator Gordon issued a *Subpoena Ad Testificandum*,^[8] approved by Senate President Manuel Villar, requiring Chairman Sabio and PCGG Commissioners **Ricardo Abcede, Nicasio Conti, Tereso Javier** and **Narciso Nario** to appear in the public hearing scheduled on August 23, 2006 and testify on what they know relative to the matters specified in Senate Res. No. 455. Similar subpoenae were issued against the directors and officers of Philcomsat Holdings Corporation, namely: Benito V. Araneta, Philip J. Brodett, Enrique L. Locsin, Manuel D. Andal, Roberto L. Abad, Luis K. Lokin, Jr., Julio J. Jalandoni, Roberto V. San Jose, Delfin P. Angcao, Alma Kristina Alloba and Johnny Tan.^[9]

Again, Chairman Sabio refused to appear. In his letter to Senator Gordon dated August 18, 2006, he reiterated his earlier position, invoking Section 4(b) of E.O. No. 1. On the other hand, the directors and officers of Philcomsat Holdings Corporation relied on the position paper they previously filed, which raised issues on the propriety of legislative inquiry.

Thereafter, Chief of Staff Ma. Carissa O. Coscolluela, under the authority of Senator Gordon, sent another notice^[10] to Chairman Sabio requiring him to appear and testify on the same subject matter set on September 6, 2006. The notice was issued "under the same authority of the *Subpoena Ad Testificandum* previously

served upon (him) last 16 August 2006."

Once more, Chairman Sabio did not comply with the notice. He sent a letter^[11] dated September 4, 2006 to Senator Gordon reiterating his reason for declining to appear in the public hearing.

This prompted Senator Gordon to issue an Order dated September 7, 2006 requiring Chairman Sabio and Commissioners Abcede, Conti, Javier and Nario to show cause why they should not be cited in contempt of the Senate. On September 11, 2006, they submitted to the Senate their Compliance and Explanation,^[12] which partly reads:

Doubtless, there are laudable intentions of the subject inquiry in aid of legislation. But the rule of law requires that even the best intentions must be carried out within the parameters of the Constitution and the law. Verily, laudable purposes must be carried out by legal methods. (*Brillantes, Jr., et al. v. Commission on Elections, En Banc* [G.R. No. 163193, June 15, 2004])

On this score, Section 4(b) of E.O. No. 1 should not be ignored as it explicitly provides:

No member or staff of the Commission shall be required to testify or produce evidence in any judicial legislative or administrative proceeding concerning matters within its official cognizance.

With all due respect, Section 4(b) of E.O. No. 1 constitutes a limitation on the power of legislative inquiry, and a recognition by the State of the need to provide protection to the PCGG in order to ensure the unhampered performance of its duties under its charter. E.O. No. 1 is a law, Section 4(b) of which had not been amended, repealed or revised in any way.

To say the least, it would require both Houses of Congress and Presidential fiat to amend or repeal the provision in controversy. Until then, it stands to be respected as part of the legal system in this jurisdiction. (*As held in People v. Veneracion*, G.R. Nos. 119987-88, October 12, 1995: *Obedience to the rule of law forms the bedrock of our system of justice. If judges, under the guise of religious or political beliefs were allowed to roam unrestricted beyond boundaries within which they are required by law to exercise the duties of their office, then law becomes meaningless. A government of laws, not of men excludes the exercise of broad discretionary powers by those acting under its authority. Under this system, judges are guided by the Rule of Law, and ought to 'protect and enforce it without fear or favor,' 4 [Act of Athens (1955)] resist encroachments by governments, political parties, or even the interference of their own personal beliefs.*)

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Relevantly, Chairman Sabio's letter to Sen. Gordon dated August 19, 2006 pointed out that the anomalous transactions referred to in the P.S.

Resolution No. 455 are subject of pending cases before the regular courts, the Sandiganbayan and the Supreme Court (Pending cases include: a. *Samuel Divina v. Manuel Nieto, Jr., et al.*, CA-G.R. No. 89102; b. *Philippine Communications Satellite Corporation v. Manuel Nieto, et al.*; c. *Philippine Communications Satellite Corporation v. Manuel D. Andal*, Civil Case No. 06-095, RTC, Branch 61, Makati City; d. *Philippine Communications Satellite Corporation v. PHILCOMSAT Holdings Corporation, et al.*, Civil Case No. 04-1049) for which reason they may not be able to testify thereon under the principle of *sub judice*. The laudable objectives of the PCGG's functions, recognized in several cases decided by the Supreme Court, of the PCGG will be put to naught if its recovery efforts will be unduly impeded by a legislative investigation of cases that are already pending before the Sandiganbayan and trial courts.

In **Bengzon v. Senate Blue Ribbon Committee**, (203 SCRA 767, 784 [1991]) the Honorable Supreme Court held:

"...[T]he issues sought to be investigated by the respondent Committee is one over which jurisdiction had been acquired by the Sandiganbayan. In short, the issue has been pre-empted by that court. To allow the respondent Committee to conduct its own investigation of an issue already before the Sandiganbayan would not only pose the possibility of conflicting judgments between a legislative committee and a judicial tribunal, but if the Committee's judgment were to be reached before that of the Sandiganbayan, the possibility of its influence being made to bear on the ultimate judgment of the Sandiganbayan can not be discounted.

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IT IS IN VIEW OF THE FOREGOING CONSIDERATIONS that the Commission decided not to attend the Senate inquiry to testify and produce evidence thereat.

Unconvinced with the above Compliance and Explanation, the *Committee on Government Corporations and Public Enterprises* and the *Committee on Public Services* issued an Order^[13] directing Major General Jose Balajadia (Ret.), Senate Sergeant-At-Arms, to place Chairman Sabio and his Commissioners under arrest for contempt of the Senate. **The Order bears the approval of Senate President Villar and the majority of the Committees' members.**

On September 12, 2006, at around 10:45 a.m., Major General Balajadia arrested Chairman Sabio in his office at IRC Building, No. 82 EDSA, Mandaluyong City and brought him to the Senate premises where he was detained.

Hence, Chairman Sabio filed with this Court a petition for *habeas corpus* against the *Senate Committee on Government Corporations and Public Enterprises* and *Committee on Public Services*, their Chairmen, Senators Richard Gordon and Joker P. Arroyo and Members. The case was docketed as G.R. No. 174340.